

# Commercially Useful Function Overview SB/DVBE Programs

Small Business Advisory Council Meeting

Sacramento, March 2, 2016

# Commercially Useful Function (CUF)

What?

- Definition and applicability

Why?

- Purpose and legislative intent

Who?

- Roles and responsibilities

How?

- Resources

Next?

- What's next?

# What is CUF?

A SB/DVBE certified firm...

❑ Performs CUF when is doing all of the following:

- ✓ Executing a distinct element of the work of the contract.
- ✓ Performing, managing, or supervising the work.
- ✓ Performing work that is normal for the firm's business services and functions.
- ✓ Negotiating price, determining quality and quantity, ordering, installing, and making payment.
- ✓ Not subcontracting a portion of the work greater than expected by industry practices.

❑ Does NOT perform CUF if:

- ✓ An extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of SB/DVBE participation.
- ✓ Not being used to perform the work as stipulated in the bid.
- ✓ No longer used to provide good/services listed in initial bid response.

# CUF and SB/DVBE Certified Firms

**All California-certified SBs and DVBEs (contractors, subcontractors and suppliers) bidding on / participating in a state contract, regardless of the procurement approach or the payment method used, must perform CUF!**



# CUF Purpose, Legislative Intent

## Purpose

- To provide reasonable assurance that no SB/DVBE is used as a pass-through on contracts.
- To prevent artificial/incidental SB/DVBE participation to meet the bid requirements.
- To ensure SB/DVBE incentives/preferences provided at bid evaluation are for services/goods that are part of the contract.

## Authority

SB 1510 (Statutes of 2012) strengthened CUF requirements in:

- SB - Government Code 14837(d)(4)(A)
- DVBE - Military and Veterans Code 999(b)(5)(B)

# CUF-Related Roles and Responsibilities

SB/DVBE	Awarding Department	OSDS
<p><b>Pre-contract award:</b></p> <ul style="list-style-type: none"> <li>• Meet <u>all</u> 5 CUF requirements</li> <li>• Submit documentation supporting CUF compliance, upon request</li> </ul> <p><b>Post-contract award:</b></p> <ul style="list-style-type: none"> <li>• Carry out work as listed</li> <li>• Notify contracting official/ advocates on CUF-related issues</li> <li>• Seek approval of SB/DVBE substitution (primes)</li> <li>• Notify when suspecting illegal substitution</li> </ul>	<p><b>Pre-contract award:</b></p> <ul style="list-style-type: none"> <li>• Review Bidder Declaration</li> <li>• Conduct CUF Evaluations</li> <li>• Perform research, market analysis</li> </ul> <p><b>Post-contract award:</b></p> <ul style="list-style-type: none"> <li>• Determine if primes/subcontractors perform CUF</li> <li>• Bid Protest/dispute</li> <li>• Approve/deny subcontractor substitutions</li> <li>• Monitor contract performance</li> <li>• SB/DVBE Advocates, buyers, legal work together to: <ul style="list-style-type: none"> <li>✓ Address SB/DVBE complaints</li> <li>✓ Report program abuse allegations to OSDS within 60 days.</li> </ul> </li> </ul>	<p><b>Pre-contract award :</b></p> <ul style="list-style-type: none"> <li>• No CUF responsibilities; CUF does not exist outside of a contract</li> <li>• Approve/deny SB/DVBE certification</li> <li>• Assist SB/DVBE Advocates</li> </ul> <p><b>Post-contract award:</b></p> <ul style="list-style-type: none"> <li>• Review, approve/deny all DVBE substitutions</li> <li>• Receive and address complaints.</li> <li>• Evaluate program abuse allegations from departments, businesses and public</li> <li>• Impose sanctions (revocation, suspension) for program abuse charges</li> </ul>

**Cal-PCA Training**

# CUF Resources

**DGS Website:** <http://www.dgs.ca.gov/pd/home.aspx> under **Buying Through State Contracts** tab:

- Sample CUF Departmental Policy
- FAQs regarding CUF
- CUF Evaluation and Determination Worksheet
- DVBE Incentive Program Requirements for Goods and Information Technology

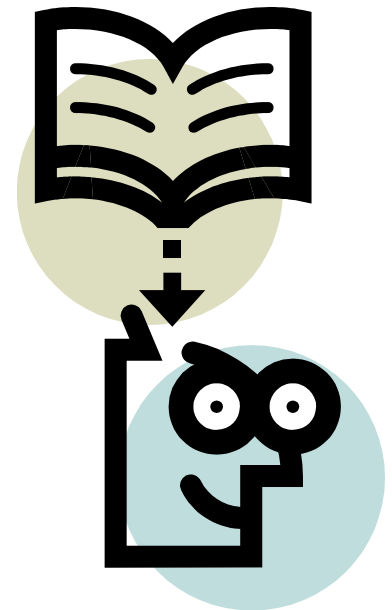
*Updated October 2015*

## **Contact :**

- Contracting/Procurement Officials
- SB/DVBE Advocates, Directory available at:  
<http://www.dgs.ca.gov/pd/Programs/OSDS/advocate.aspx>
- OSDS Website: <http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>

# What's next?

- Quarterly Customer Forum (state agencies)
- Quarterly Purchase Authority Roundtable
- Quarterly SB/DVBE Advocates Meeting
- SCM Update on CUF-related sections
- Cal-PCA CUF Training Update
- Follow up
- Assess policy effectiveness





# Questions?

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